

IN RE:

Emanuele Torelli

Debtor(s)

Case No. 08 B 30416

Chapter 7

Hearing Date: 12/04/08

Judge Carol A. Doyle

NOTICE OF MOTION

To: Karen R. Goodman, Esq., Interim Trustee, 111 E. Wacker Dr., Suite 2800, Chicago, IL 60601, via electronic notice
Emanuele Torelli, Debtor(s), 767 Schooner LN, Elk Grove Village, IL 60007-6910
Troy Gleason, Attorney for Debtor(s), 77 W. Washington, Ste. 1218, Chicago, IL 60602, via electronic notice
Berton J. Maley, Gloria C. Tsotsos, Jose G. Moreno, Rachael A. Stokas, Peter C. Bastianen, Joel P. Fonferko, Condilis & Associates, P.C., 15W030 North Frontage Road, Suite 100, Burr Ridge, IL 60527, via electronic notice.

PLEASE TAKE NOTICE that on the 4th day of December, 2008, at 10:00 a.m. or as soon thereafter as counsel may be heard, we shall appear before the Honorable Carol A. Doyle, Bankruptcy Judge, in the courtroom usually occupied by her at the Dirksen Federal Courthouse, 219 South Dearborn, Chicago, Illinois, room 742, or before any other Bankruptcy Judge who may be sitting in her place, and then and there present a **MOTION TO MODIFY STAY**, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

/s/Kevin A. Ameriks

Attorney for Movant

**BERTON N. RING
KEVIN A. AMERIKS
BERTON N. RING, P.C.
123 West Madison Street
Suite 1500
Chicago, IL 60603
312-781-0290**

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that I served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee, the Debtor's attorney and the attorneys for Fifth Third Mortgage Company via electronic notice on November, 26, 2008 and as to the Debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 123 W. Madison Street, Chicago, Illinois 60602 before the hour of 5:00 p.m. on November 28, 2008:

Karen R. Goodman, Esq., Interim Trustee, 111 E. Wacker Dr., Suite 2800, Chicago, IL 60601.

Emanuele Torelli, Debtor(s), 767 Schooner LN, Elk Grove Village, IL 60007-6910

Troy Gleason, Attorney for Debtor(s), 77 W. Washington, Ste. 1218, Chicago, IL 60602.

Berton J. Maley, Gloria C. Tsotsos, Jose G. Moreno, Rachael A. Stokas, Peter C.

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s/Kevin A. Americks

Attorney for Movant

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

IN RE:)	
)	Case No. 08 B 30416
Emanuele Torelli)	Chapter 7
)	Hearing Date: 12/04/08
)	
Debtor(s))	Judge Carol A. Doyle

MOTION TO MODIFY STAY

NOW COMES 5701 Claremont Building Corporation (hereinafter “Movant”), by and through its attorneys, Berton N. Ring, P.C. and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois;

2. The Debtor is indebted to Movant for a leasehold interest at 5701 South Claremont, Chicago, Illinois pursuant to a written lease;

3. Movant seeks possession of the property and there is currently an eviction action pending in the Circuit Court of Cook County styled *5701 Claremont Building Corporation v. Torelli*, 2008 M1 722008, which has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon the Debtor’s filing of the petition on November 7, 2008;

4. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:

a) The Debtor is in default of the lease having not paid rent since July 2008 and further having abandoned the premises.

5) Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding which have been included in the calculation of any default figures quoted herein

\$500.00, for Preparation of Notice and Motion for Relief

from the Automatic Stay, and One Court Appearance;

\$150.00, for the Court filing fee.

6) This Court has authority to order that Rule 4001(a)(3) is not applicable to this order entered in granting this motion, and Movant requests this Court so order.

WHEREFORE, 5701 Claremont Building Corporation, prays this Court enter an Order pursuant to 11 U.S.C. §362(d) modifying the automatic stay as to Movant to allow the eviction action to proceed, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the lease, and for such other and further relief as this Court may deem just and proper.

Dated this November 26, 2008.

Respectfully submitted,

By: s/Kevin A. Ameriks
BERTON N. RING, P.C.

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